

**VIRGINIA TOBACCO INDEMNIFICATION
AND COMMUNITY REVITALIZATION COMMISSION**

701 East Franklin Street, Suite 501
Richmond, Virginia 23219

TROF Committee Meeting

Tuesday, August 13, 2013
12:30 p.m.

Hotel Roanoke & Conference Center
Roanoke, Virginia

CRANE-SNEAD ASSOCIATES, INC.
4914 Fitzhugh Avenue, Suite 203
Henrico, Virginia 23230
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1 **APPEARANCES:**

2 The Honorable Terry G. Kilgore, Chairman

3 The Honorable Frank M. Ruff, Vice Chairman

4 The Honorable Edward Owens

5 Mr. Timothy S. Pfohl, Interim Executive Director and

6 Grants Program Administration Director

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9 COMMISSION STAFF:

10 Mr. Ned Stephenson, Deputy Executive Director

11 Ms. Stephanie S. Kim, Director of Finance

12 Ms. Carolyn Bringman, Performance Data Analyst

13 Ms. Stacey Richardson, Executive Assistant

14

15 COUNSEL:

16 Megan Martz Gilliland, Esquire

17 CHRISTIAN & BARTON, LLP

18 Mutual Building

19 909 East Main Street

20 Suite 1200

21 Richmond, Virginia 23219-3095

22 Counsel for the Commission

23

24 Also Present:

25 Mr. Neal Noyes

1 DELEGATE KILGORE: Welcome, good afternoon.
2 I'll call the meeting to order; it's now 12:30.

3 Would you call the roll, Tim?

4 MR. PFOHL: Delegate Kilgore?

5 DELEGATE KILGORE: Here.

6 MR. PFOHL: Senator Ruff?

7 SENATOR RUFF: Here.

8 MR. PFOHL: Mr. Owens?

9 MR. OWENS: Here.

10 MR. PFOHL: I'm here. We have a quorum.

11 MR. STEPHENSON: Mr. Chairman, on Page 3 of
12 your packet is a list of TROF grants, some of which have already
13 occurred, but the last five or six deals have not been completed
14 yet. They have been extended to today.

15 Mr. Chairman, when we hear these TROF transactions,
16 some of them are not yet on-going projects, some have been and
17 change by the day, and it's hard to know exactly which ones
18 need attention and which ones do not. I'm going to ask the
19 Commission in our discussions today if we can refer to the
20 grants by grant number and not by name. For purposes of this
21 discussion we may need to go into executive session, if that
22 would please the Chair.

23 SENATOR RUFF: If we're going to talk about
24 numbers, do they all have numbers?

25 MR. STEPHENSON: Except for the odd-numbered,

1 and several of the unnumbered deals are not before the
2 Committee today. If you would look at the meeting date you'll
3 find August 13, and that's the group under consideration today.

4 DELEGATE KILGORE: What are we going to take
5 first? I guess the Carroll County IDA, and the requested
6 amount is two forty-five and the guideline recommends two
7 hundred?

8 MR. STEPHENSON: Yes, sir. That particular
9 request and analysis is very much down the middle of the road
10 inside of your policy, and the Staff recommends that for
11 approval without issue.

12 DELEGATE KILGORE: All right. Is anyone here
13 from Carroll County that would like to speak to this request?
14 Okay, do I hear a motion that we approve it? We have a motion
15 and a second for approval. All those in favor say aye? (Ayes.)
16 Opposed? (No response.) All right. It's approved.

17 What about the next one, Town of Abingdon?

18 MR. STEPHENSON: Mr. Chairman, that deal and
19 transaction is small in size in terms of the amount that the
20 Commission would normally award. Your policy, which you
21 recommended and not yet approved, has a \$50,000.00
22 minimum grant award in it unless this Committee recommends
23 it and full Commission approves it. So it is otherwise within
24 the guideline in all respects except for the size of the
25 transaction.

1 MR. PFOHL: Mr. Chairman, I thought that the
2 applicant had a request for 500,000 in the Southwest Economic
3 Development program for the same project.

4 DELEGATE KILGORE: What do you suggest we do?

5 MR. PFOHL: We're developing the Southwest
6 Economic Development grant applications. We could hold off
7 until September.

8 DELEGATE KILGORE: All right, that will work. So
9 we have a motion to table that until September. All right.
10 The next one, Russell County?

11 MR. STEPHENSON: This particular transaction,
12 the requested amount before you is 160,000, and the guideline
13 supports considerably more than that which is before you.
14 Those calculations are in your book, and if you'll notice on Page
15 7 there are a significant number of jobs which the applicant
16 asserts will be saved if this grant is made. So, the safety of jobs
17 drives the incentive award.

18 DELEGATE KILGORE: They're asking for 160?

19 MR. STEPHENSON: The ask is 160, and the
20 guideline is thirty-nine five if you count the large number of
21 saved jobs, and it's always difficult to determine whether the
22 making or withholding of the grant is actually saving those jobs
23 or not. It's just hard to know.

24 MR. OWENS: Mr. Chairman, I move we approve
25 160,000.

1 SENATOR RUFF: Second.

2 DELEGATE KILGORE: All right. It's been moved
3 and seconded. All those in favor say aye? (Ayes.) Opposed?
4 (No response.) All right.

5 Prince Edward County.

6 MR. STEPHENSON: Mr. Chairman, you have the
7 details before you. The Staff would make a quick
8 recommendation on this one, and that issue is right now right
9 down the middle of the road on the guidelines.

10 DELEGATE KILGORE: Do I have a motion on that?

11 MR. OWENS: So moved.

12 SENATOR RUFF: Second.

13 DELEGATE KILGORE: We have a motion and a
14 second. All those in favor say aye? (Ayes.) Opposed? (No
15 response.)

16 MR. STEPHENSON: Mr. Chairman, I'd like to go
17 back to Number 2723. You'll see that one has some unusual
18 characteristics to it; in particular the amount requested is
19 significantly larger than your guidelines support for that
20 particular transaction. There may be other considerations
21 that the Committee wants to make before a decision is reached
22 on that.

23 DELEGATE KILGORE: We've got some people here
24 who would like to speak to that very quickly. Please come
25 forward and tell us what's going on. Give us your name.

1 MS. PHILLIPS: Thank you, Mr. Chairman. I'm
2 delighted to be here, and I'm representing Virginia Intermont
3 College in Bristol, Virginia. As I said, I'm president of
4 Intermont College in Bristol, Virginia.

5 As you may know, Virginia Intermont is right in the middle
6 of downtown Bristol. It's an integral part of Bristol's success
7 and also an economic driver. We realize this is an
8 extraordinary request to the Commission; nonetheless we're
9 asking for your support. The amount requested initially came
10 about through a challenge by a private citizen, and what we
11 have done in the past few weeks, we've raised \$1.5 million in
12 cash to fully match the 1.5 million requested from the
13 Commission. The basis of our request is more for job saving,
14 new jobs increase the payroll rationale. We do have, however,
15 taxable property, and we lease a significant amount of taxable
16 property as well, so there is a potential for us to make an
17 investment in the capital taxable assets in the region.

18 Virginia Intermont has been in the news a lot recently
19 because we are in a battle with our accreditors, the Southern
20 Association of Colleges and Schools. I'm a former trustee of the
21 Commission, and the SACS Commission handled the University
22 of Virginia accreditation in my previous 30-year career there. I
23 would like to point out that accreditation is not the same thing
24 as being in operation. The Commonwealth of Virginia allows
25 us to operate, not the Commission, not the accreditation

1 commission. We fully intend to remain as a college, and that
2 could end up being slightly legally different over time. If we
3 merge with a partner we may well be independent, but we are
4 not seeking to be a college. So your investment is critical in
5 Southwest Virginia for higher education and in the City of
6 Bristol.

7 Mr. Chairman, I'll be happy to answer any specific
8 questions I can, and I've been criticized for talking too long, but
9 I'll be happy to answer any questions or direct my comments in
10 another way.

11 DELEGATE KILGORE: I guess you said being
12 accredited is not being operational?

13 MS. PHILLIPS: That's correct. There are six
14 regional accreditors in the United States, and throughout the
15 country there are larger accreditors. The purpose of
16 accrediting is that they are short-lived and it's recognized by the
17 federal government to authorize federal financial aid. There
18 are other accreditors other than SACS who can recognize us
19 and guarantee financial aid. Our situation is very interesting
20 in the way the federal government looks at financial
21 responsibility and eligibility for federal financial aid. They do a
22 test called Composite Financial Investment, CFI. It's a scale of
23 three points, and all the colleges are evaluated. It's possible to
24 get a negative score on the scale of three. In 2010, prior to my
25 arrival, we had a point five on a scale of three, and in 2011 at

1 the close of my first year we had a point nine. And then, at the
2 close of 2012 we had a one point four, and we're showing a one
3 point seven right now, which is well above the level required for
4 financial responsibility. So we are deemed financially
5 responsible by the federal government and the accreditation to
6 make an issue of certain suggested ventures that have to do
7 with historic financial performance. I'd also point out that of
8 the 82 or 83 standards that the SACS accrediting requires, we
9 have 81 of them.

10 DELEGATE KILGORE: How many?

11 MS. PHILLIPS: Approximately 81. There are a
12 number of standards and there are subcategories, but as a
13 former trustee I'm well familiar with those, and we passed all of
14 them, all 81, except for two related to financial matters.
15 Importantly, our academic program has passed without
16 monitoring. That's something the college can claim when
17 dealing with the accreditors. The Commonwealth of Virginia
18 has authorized us to operate, and the accreditors do not. We're
19 engaged in an appeal at this time and welcome that
20 opportunity. The first time that SACS allowed us to appeal.
21 We have very expert legal counsel, and there will be an appeal
22 decision on August 21. Regardless of the outcome of the
23 appeal, an investment in Virginia Intermont is an investment in
24 higher education for the region. We expect, or what we've
25 asked for is that that decision be remanded to allow us to bring

1 forward additional financial information. We've raised 1.5
2 million in cash, and for a small school that's a significant task to
3 be able to do that.

4 DELEGATE KILGORE: So you're going to save those
5 jobs there?

6 MS. PHILLIPS: Correct, that's head count.

7 DELEGATE KILGORE: If this doesn't work out,
8 what happens to those jobs?

9 MS. PHILLIPS: What is that?

10 DELEGATE KILGORE: What happens to the jobs if
11 you don't raise the capital?

12 MS. PHILLIPS: We'd cut, more jobs would have to
13 be cut over time. We have to cut more jobs, and we've already
14 cut some. We don't want to do that. It's critical to the college.
15 I've already eliminated several jobs over the past year, but we'd
16 have to eliminate several more if we don't get this and maybe
17 eliminate some academic programs.

18 DELEGATE KILGORE: When do you start back?

19 MS. PHILLIPS: We start classes August 19th.
20 Freshmen move in Thursday, the 15th, and others on the 17th.

21 DELEGATE KILGORE: What's the student
22 population?

23 MS. PHILLIPS: Last year our head count was 495,
24 and we brought in more tuition last year than what was
25 projected. We run a conservative budget. We don't want to

1 overestimate. Our returning students is strong so far, no
2 different than any previous year. We do not have the numbers
3 we want on entering students, but we expect to be about 30
4 down on the entering class as of last Monday. As of last
5 Monday we had 79 confirmed students in the entering class.
6 We had anticipated 110, and we had expected more students
7 than we had this time last year. With the accreditors making
8 the decision they did, it hurt the new students, but the
9 returning students are returning enthusiastically, and that's a
10 positive side for the school. I'll be happy to answer any further
11 questions.

12 SENATOR RUFF: Was that request made last year?

13 MR. PFOHL: Southside Economic Development last
14 year, the committee approved a grant for Ferrum and Virginia
15 Intermont and St. Paul's but that grant has, the five colleges,
16 and that grant was rescinded when St. Paul lost the
17 accreditation.

18 SENATOR RUFF: Did St. Paul's make a request
19 earlier during their drive to accumulate more dollars?

20 MR. PFOHL: We had several meetings with the St.
21 Paul's leadership and we encouraged them to approach us, and
22 they had a previous request, and that's what that request was
23 composed of.

24 SENATOR RUFF: Didn't we modify St. Paul's
25 request already?

1 MR. PFOHL: The other colleges and --

2 SENATOR RUFF: -- How much was the size of the
3 previous grant?

4 MR. PFOHL: One point two million, which was
5 through the Reserve Program.

6 DELEGATE KILGORE: Senator Carrico.

7 SENATOR CARRICO: Mr. Chairman, you have
8 heard the information that has been given, and I just want to
9 reiterate the economic impact it's going to have on already a
10 struggling economy in Bristol and the things they're trying to do
11 to overcome that. I think they're trying to do the best they can
12 to overcome that and by getting public support, and they've
13 gotten 1.5 million already committed to them and the Tobacco
14 Commission offerings with another 1.5. I know there is a lot of
15 money there, and there are about 430 students that are looking
16 to go to VI this year, and the economic impact it will have on this
17 region from those that will possibly be delaying going there and
18 will not be able to get the educational tools they need to
19 overcome the problems that we have in our region. I think it's
20 something we really need to take a closer look at and help this
21 area and the college.

22 DELEGATE KILGORE: Is there a promise for 24
23 new jobs?

24 SENATOR CARRICO: Yes, new jobs.

25 DELEGATE KILGORE: And if the jobs aren't there,

1 the clawback, if that happens do you think you can do that?

2 Do you think VI can handle that?

3 SENATOR CARRICO: I think they can bring those
4 24 new jobs in, and they're held to the same standard as anyone
5 else that we have who comes before this Commission.

6 MR. OWENS: You have the new enrollment. How
7 many proposed new employees would you need?

8 SENATOR CARRICO: I don't know, and I'd have to
9 leave that up to Ms. Phillips.

10 MR. OWENS: How do you propose to increase the
11 number of employees?

12 MS. PHILLIPS: We actually would not then have
13 those positions, but we have already admitted more students
14 than we had the previous time last year. We've increased the
15 number of students that have accepted our offer about 10 to 11
16 percent. In other words, 10 or 11 percent of the students, and
17 we've doubled that to 30 percent and there are some transfers, a
18 very impressive increase, and on its face we're in a position to do
19 that. We faxed the creditors and they made their decision in
20 June. Your gift, along with the 1.5 award, that will give us \$3
21 million, and that makes a big difference to the college, and we
22 believe strongly it will require the creditors to remand their
23 decision. We can come back with even more information.
24 This total package makes a significant difference how we finish
25 the June 30th year. Without this we're certain to lose jobs, but

1 with this we can overcome and counter that negativity
2 associated with the recent accreditation decision. We're asking
3 them to remand that previous decision, and we believe they'll
4 remand that decision with this. We believe with this reversal, I
5 think they'll immediately reverse the decision, and this is
6 significant to remanding the decision. I might add also the
7 Commission is providing us a planning grant, and that's critical
8 to downtown Bristol, and that certainly would encourage us to
9 go forward as well.

10 MR. TRIVETTE: We love it up here. I'm the
11 assistant city manager. Obviously we think this is critical to
12 Bristol, not only the economics but the city as well. There are a
13 certain amount of students who will return, and we know that.
14 We have done our part as a fund drive that's taking off to ensure
15 that the college receives its accreditation to be able to operate as
16 an educational institution for many years.

17 MR. OWENS: You indicated this would create 24
18 new jobs. You're aware of the clawback?

19 MR. TRIVETTE: Yes, the city has participated in a
20 number of TROF agreements.

21 MR. STEPHENSON: Mr. Chairman, in this
22 particular instance, if you will note in your book the applicant
23 and the beneficiary is the college, and the city is not part of this
24 deal. So as it was applied for, the city would not be obligated
25 unless you and the city agree to do that.

1 DELEGATE KILGORE: I was just reading that off
2 the sheet.

3 MR. STEPHENSON: Right, and that sheet is
4 prepared for all TROF deals because they all have a third party.
5 This one came in to us as a two-party agreement, and I
6 apologize for that.

7 DELEGATE KILGORE: Does anyone want to speak
8 on this \$1.5 million?

9 SENATOR RUFF: Mr. Chairman, I move that we
10 approve the guideline.

11 MR. OWENS: Second.

12 DELEGATE KILGORE: That would be the 210,000.
13 From what I've heard I would like to help them out all we can,
14 but we have to make sure.

15 SENATOR RUFF: Mr. Chairman, several years ago I
16 had someone tell me involving a significant amount of money to
17 save 2200 jobs in Mecklenburg and assets, and jobwise we can
18 with the dollars available really. But we're the first place they
19 come to for them, but in my motion does that include the City of
20 Bristol would be part of this clawback? I'd be willing to discuss
21 that issue, and I make the motion.

22 MR. OWENS: The city understood they're a party to
23 it.

24 SENATOR RUFF: Then I would amend my motion to
25 include the City of Bristol.

1 MS. PHILLIPS: I'd like to make a comment if I may.
2 These students who go to Virginia Intermont by and large will
3 not go to another college in the region. Some people think that
4 they'll go over to Emory and Henry, TSU or Virginia Tech or
5 something. Virginia Intermont is a niche school that carries a
6 significant number of national programs. Students will not
7 stay by and large, some will, but students will not stay in Bristol
8 or Southwest Virginia if Virginia Intermont is not there. It's a
9 very niche-specific school.

10 SENATOR CARRICO: The question was brought up
11 by Senator Ruff about the city, and the mayor is here, and he's
12 willing if you'd like to talk to him.

13 MAYOR: Mr. Chairman, and members, I'm the
14 mayor, and I'm a little bit late, but the City of Bristol is willing to
15 be the grantor in this motion.

16 MR. OWENS: The same as St. Paul in that scenario,
17 going back to the Southside Economic Development request. If
18 you don't get the 1.5 here you can go back to Southside
19 Economic Development and try to get some of those funds?

20 DELEGATE KILGORE: I'm sure they'll be happy to
21 help them out. All right. All those in favor of Senator Ruff's
22 motion pen and ink with the city as a party say aye? (Ayes.)

23 All right. Ned.

24 MR. STEPHENSON: Mr. Chairman, we're a little bit
25 pushed on time here, so quickly the Executive Committee is due

1 to meet here at 2:00. I draw your attention to Page 10 in your
2 book. Page 10 is a term sheet that you saw in June for a deal
3 with the City of Bristol. When you met in June you
4 recommended this term sheet to be approved by the
5 Commission at its next meeting this afternoon. Since that time
6 there have been some changes. Some events have occurred,
7 and the City is now before us today requesting some changes to
8 the term sheet. I would tell you that in granting the agreement,
9 from the term sheet there were eight or ten items that the City
10 and Commission are not yet fully ratified as to the precise
11 language in the agreement, but among those eight or ten issues
12 there is one that emerges clearly from all the rest. It is a
13 material change in the term sheet. And I'm going to articulate
14 that change as best I can, and then after that counsel and the
15 City may want to elaborate if I fall short.

16 If you will remember this particular project relies on a
17 specific Code Section, and in that Code Section there is a
18 sentence that says the City cannot get the revenue from the
19 Commonwealth until the project is completed. Some parties in
20 the transaction interpreted that to mean that the entire project
21 had to be fully completed before the City could access any
22 revenue from the Commonwealth. It was felt by many that that
23 was the unintended result of that legislation and that was not a
24 correct interpretation and that particular sentence could be
25 corrected at the upcoming General Assembly Session. So this

1 Committee agreed to these terms to be guaranteed to the
2 bondholder, to the City, that you would guarantee that that
3 particular sentence required completion of the entire project
4 and that that perceived flaw with the language would be cured.
5 So you agreed to provide that guarantee for that specific risk.
6 The City has now proposed to the Staff of the Commission
7 asking that the Commission guarantee payment to the
8 bondholder and to the City if the Commonwealth denies
9 payment to the City for any reason whatsoever, and that really
10 broadens your guarantee from one specific problem to all
11 problems. Just to give you a for instance, that would include a
12 potentially adverse ruling from the Attorney General as to this
13 project, and it would potentially include litigation that may
14 come against the City or against the comptroller or any other
15 party to the transaction. In other words, you would be
16 guaranteeing payments from the Commonwealth regardless of
17 what happened. I think that's a material change, and I place
18 that before the Committee today for your discussion as to
19 whether you want to allow that change.

20 DELEGATE KILGORE: I know we had a very
21 substantial meeting at the June 11th meeting or the July 11th
22 meeting; I believe it was June.

23 MR. TRIVETTE: Mr. Chairman and members of the
24 Committee, I agree with what Ned said, but I want to go a little
25 farther. The City is requesting the language be changed, not

1 because the City desires it to be changed, but because the City
2 needs it to be changed because the underwriter in our
3 transaction needs it changed in order for the bond sellers to
4 proceed.

5 As you remember the discussion in June, the entire
6 project relies on the sale of the bonds, the revenue bonds, to
7 proceed. In order for that transaction to take place the bond
8 buyers themselves have to have some certainty that revenue will
9 flow and be protected by the counsel who reviews this practice.
10 The impediment to that would be a challenge that results in the
11 Commonwealth's inability to remit the taxes on time. I don't
12 believe there is a scenario where the Commonwealth will not
13 remit taxes, at all, just a matter of timing. The material change
14 Mr. Stephenson referred to is the fact that originally we talked
15 about one vulnerability, which was that construction would not
16 be completed as defined in the language as written. We're now
17 asking the Commission to guarantee the Commonwealth's
18 performance. If you remember the presentation at the original
19 hearing, it was said that the Commission was being asked to
20 guarantee the Commonwealth's performance, and that's what
21 we're asking you to do, to guarantee that performance. If the
22 Commonwealth's opinion today and the decision today the
23 overall requirements of the legislation have been addressed and
24 we're prepared to receive and the Commonwealth is prepared to
25 remit the taxes when due, and the project will start producing

1 revenue. The only thing at this point that would disrupt the
2 flow would be a suit or some type of challenge that would
3 interrupt the Commonwealth's ability to perform pursuant to
4 the legislation.

5 Certainly, Mr. Chairman, we have the entire City Council
6 here and most of the members of the City's executives, as well
7 as the bond counsel for the City and for the underwriter in the
8 transaction.

9 DELEGATE KILGORE: When we initially agreed to
10 do this thing we thought it was under a provision that the
11 General Assembly, either the comptroller or General Assembly,
12 if they failed to act the way they should, then we were a
13 guarantor.

14 MR. PFOHL: That's correct.

15 DELEGATE KILGORE: How did this change?

16 MR. STEPHENSON: This broadens your guarantee
17 not only that one specific cure, if you will to guarantee payment
18 to the City regardless of the reason for which the
19 Commonwealth might withhold payment for unforeseen
20 reasons.

21 Mr. Chairman, I think it's important for the Committee to
22 be aware of some recent events. I'm not prepared to elaborate
23 on these; the information I have is really from the press and
24 accordingly incomplete, but I understand there has been a
25 request made to the Attorney General for an opinion as to the

1 constitutional of this project and some other aspects of it and
2 everyone is awaiting that opinion. Again, that is a news report
3 I am relating to you. I can also relate to you that there have
4 been some new reports of possible litigation being brought with
5 respect to the project. I'm not certain of that, but, again, this is
6 a news report, but I just bring that to your attention so that the
7 Committee will be fully informed of potential unresolved
8 conflicts that will affect the project.

9 MR. TRIVETTE: Mr. Chairman, if I may. One of the
10 things we talked about, at least the fact that the intent of the
11 guarantee is the Commonwealth's performance, and that's an
12 unresolved issue that the City brought to the Commission, the
13 first piece being the guarantee so we could proceed with the
14 bond sale despite the uncertainty of what may happen in the
15 future. Certainly we can't predict third-party actions which
16 we're hoping to avoid any kind of conflict they may not be able to
17 deal with, in which case the guarantee was revised satisfaction
18 and is being sought by the underwriters and the bond buyer
19 and we can proceed on schedule without a problem.

20 SENATOR RUFF: Mr. Chairman, before we talked
21 about timing issues, now we're talking about the whole ball of
22 wax, is my understanding. I see the attorneys are here.

23 MR. STEPHENSON: Mr. Chairman, your
24 commitment was \$5.5 million and can't be any more than that,
25 a \$55 million bond issue, so you'd be guaranteeing

1 approximately 10 percent of the debt service on this bond, not
2 to exceed 5.5 million. There are a number of dates in your term
3 sheet that constrain your obligation, and the most important of
4 which is this, and this is very important. Your obligation does
5 not exist unless the bonds are sold by December 14th. So if
6 there is no bond sale you have no obligation, and I say that --

7 DELEGATE KILGORE: -- If for some reason the
8 bonds fail, whether it's a lawsuit or a writ of mandamus or
9 whatever, we're not obligated. So what I'm asking you is, and
10 this has to be a unanimous vote, but why can't we go forward
11 with it the way it is?

12 MR. TRIVETTE: Well, I'd have to refer to our
13 underwriter counsel. The agenda provided for this hearing and
14 there are a number of situations. Let's hear from counsel.

15 MS. FRENCH: I would say that there is no way we
16 can guarantee or anyone can guarantee that the bonds will be
17 sold without the guarantee from the Commission. We wanted
18 to apply to make it a little bit stronger credit, something that
19 would weigh in favor of selling the bonds. That's the reason we
20 came back with the request that the language be included to
21 include others besides the Commission. I think there are two
22 primary risks we're concerned about. One turned out not to be
23 a development regional impact. Secondly, that taxes, sales
24 taxes, were paid. So those two risks. We wanted the language
25 added and we'd offer the ability to you to cut it back.

1 DELEGATE KILGORE: The cashflow would cover
2 either the comptroller or General Assembly. I assumed we
3 could do that.

4 MS. FRENCH: The language currently in the term
5 sheet would kick in the guarantee only if the cash and the sales
6 tax flow, if the project wasn't completed in some way.

7 DELEGATE KILGORE: Basically what I said was
8 that the comptroller or General Assembly did not say that we
9 could do that incrementally as the project is completed.

10 MS. FRENCH: That's the way it's written now in the
11 term sheet.

12 DELEGATE KILGORE: All right. Ned, do we have
13 the facts?

14 MR. STEPHENSON: I think the facts are before you,
15 Mr. Chairman.

16 SENATOR RUFF: Mr. Chairman, I'm concerned,
17 and I would like maybe to meet with Counsel.

18 MS. GILLILAND: I think the term sheet that was
19 approved by the TROF Committee in June this year is very
20 specific as to the language in the last sentence of this particular
21 section. No substitution shall be made until construction is
22 complete, until there has been a certification that the
23 renovations are substantially complete and by representatives
24 and the underwriter and that that particular piece of legislation,
25 it was unclear what that would mean and what that represents

1 to the TROF Committee. Now it's certainly broader and
2 whether or not the TROF Committee wants to consider taking
3 on or what needs to be the outcome from the AG and whether or
4 not you all want to undertake that as part of this agreement.

5 DELEGATE KILGORE: My thought on that is we're
6 trying to get past whether the Attorney General or someone
7 filing suit, and that's totally separate apart from what we're
8 doing. Do you agree with that?

9 MS. GILLILAND: I would agree with what's in the
10 term sheet and the minutes.

11 DELEGATE KILGORE: I want to help you, but there
12 are three other folks here.

13 MR. TRIVETTE: Well, certainly the guarantee you
14 asked for in June, so there's no guarantee at all.

15 DELEGATE KILGORE: We've already voted on the
16 original term sheet, I'm afraid we'll have to vote again.

17 MR. STEPHENSON: The recommendation will go to
18 the Commission this afternoon.

19 Mr. Chairman, I have no further TROF matters for your
20 consideration at this time.

21 DELEGATE KILGORE: All right. Anything else to
22 come before the TROF Committee? We're going to go ahead
23 and adjourn this Committee, and we'll start the Executive
24 Committee meeting at 1:30.

25 PROCEEDINGS CONCLUDED.

1 CERTIFICATE OF THE COURT REPORTER

2

3 I, Medford W. Howard, Registered Professional

4 Reporter and Notary Public for the State of Virginia at large, do

5 hereby certify that I was the court reporter who took down and

6 transcribed the proceedings of the **Virginia Tobacco**

7 **Indemnification and Community Revitalization**

8 **Commission TROF Committee Meeting when held on**

9 **Tuesday, August 13, 2013 at 12:30 p.m. at the Hotel**

10 **Roanoke & Conference Center, Roanoke, Virginia.**

11 I further certify this is a true and accurate transcript

12 to the best of my ability to hear and understand the

13 proceedings.

14 Given under my hand this 23rd day of August, 2013.

15

16

17

18 _____

19 Medford W. Howard

20 Registered Professional Reporter

21 Notary Public for the State of Virginia at Large

22

23

24 My Commission Expires: October 31, 2014.

25 Notary Registration Number: 224566